

**PROPOSED CHARTER**

**LAKE AND PENINSULA HOME RULE BOROUGH**

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## **PREAMBLE**

WE, the people of The Lake and Peninsula Borough, exercising the powers of Home Rule granted by the Constitution of the State of Alaska, in order to provide for local government responsive to the will and values of the people and to the continuing needs of the communities within the borough, hereby establish this Home Rule Charter.

## **ARTICLE 1 NAMES, BOUNDARIES AND POWERS**

### **Section 1.01**

#### **Name**

The borough shall be a municipal corporation known as the Lake and Peninsula Borough. Whenever it deems it in the public interest to do so, the borough may use the name, Lake and Peninsula Home Rule Borough.

### **Section 1.02**

#### **Boundaries**

The boundaries of the borough shall be the same as the boundaries of The Lake and Peninsula Borough as they exist on the date of ratification of this Charter, and as those boundaries thereafter are legally modified.

### **Section 1.03**

#### **Powers**

The Borough may exercise all powers not prohibited by law or this Charter.

### **Section 1.04**

#### **Intergovernmental Relations**

The borough may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by agreement with any one or more local governments, the State, or the United States, or any agency or instrumentality of these governments.

## **ARTICLE 11 THE ASSEMBLY**

### **Section 2.01**

#### **Powers**

The governing body of the borough shall be the Assembly. Except as otherwise provided by law or this Charter, the Assembly shall exercise all powers of the borough and shall provide for the performance of all duties and obligations of the borough.

## Section 2.02

### Composition

The Assembly elected by the qualified voters of the borough shall consist of Seven Assembly Members, one of whom shall be the Mayor elected at large.

- a. District 1 - 3 Seats - A, B, C
  - Port Alsworth
  - Nondalton
  - Newhalen
  - Pedro Bay
  - Kokhanok
  - Igiugig
  - Pope Vannoy
- b. District 2 - 3 Seats - D, E, F
  - Egegik
  - Pilot Point
  - Port Heiden
  - Chignik Lake
  - Chignik Lagoon
  - Chignik Bay
  - Perryville
  - Ivanof Bay
  - Ugashik
- c. At Large - 1 Seat - G Mayor

## Section 2.03

### Terms and Election of Assembly Members

1. Term. Each Assembly member shall be elected to three year staggered terms. For the initial election, seats A and D will be one (1) year terms, seats B, E, and G will be for two (2) year terms, and seat C and F will be for three (3) year terms.
2. Election. Assembly members for seats A, B, C, D, E, and F shall be elected at large by the qualified voters of the borough and shall be a resident of the district to which the seat they seek is assigned. The Mayor elected to Assembly seat G shall be elected at large by the qualified voters of the Borough and shall be a resident of either District 1 or 2. An Assembly member represents all the voters of the borough.
3. The Assembly, may, by ordinance, adopt additional procedures pertaining to the nominations and election of Assembly members and the office of Mayor.

## Section 2.04

### Qualifications

1. Only a qualified voter of the borough, who has been a resident of the borough for at least one (1) year immediately preceding his election, or appointment to office, shall be qualified for elective borough office.
2. No Assembly member may hold any other compensated borough office or employment, or elected partisan political office, while serving on the Assembly, unless otherwise provided by an ordinance ratified by the voters of the borough.

3. An Assembly member shall be a resident of the district to which the member's seat is assigned at the time of the member's election or appointment.
4. An Assembly member who ceases to be a resident of the district to which the member's seat is assigned immediately forfeits his office.

#### Section 2.05

##### Vacancies and Forfeiture of Office

1. The office of an elected borough official shall become vacant upon death, resignation, removal from office in any manner authorized by law, or by this Charter, or by forfeiture of his office.
2. An elected borough official shall immediately forfeit his office if he:
  - A. Fails to comply with all qualifications prescribed by this Charter;
  - B. Fails to qualify or take office within thirty (30) days after election or appointment;
  - C. Fails to attend three (3) consecutive regular meetings of the Assembly without being excused by the Assembly;
  - D. Is physically absent from the borough for ninety (90) consecutive days unless excused by the governing body;
  - E. Is physically or mentally unable to perform the duties of office as determined by a two-thirds vote of the governing body;
  - F. Is convicted of a felony;
  - G. Is convicted of a violation of AS 15.13 State Election Campaigns; or
  - H. No longer physically resides in the borough or election district.
3. The Assembly shall, by ordinance, provide the procedures for filling of vacancies.

#### Section 2.06

##### Organization and Rules of Assembly

1. The Assembly shall meet within seven days following certification of the election. At such meeting the Assembly shall elect from its membership a Deputy Mayor, and do such other acts as may be required for its organization and for the conduct of business.
2. The Assembly shall, by ordinance, determine its own rules and order of business and shall maintain a journal of its proceedings as a permanent public record.

#### Section 2.07

##### Compensation

The Assembly, by ordinance, shall provide for compensation of the Assembly members. An increase in compensation shall not take effect until the Assembly meeting following the regular election after the ordinance has been adopted.

## Section 2.08

### Meetings

1. The Manager shall hold at least one (1) regular meeting every month at such time and place as it may prescribe, unless otherwise provided by ordinance.
2. The Manager or any three (3) Assembly members may call a special meeting of the Assembly if a majority of the Assembly members are given at least 24 hours oral or written notice and reasonable efforts are made to notify all members. A special meeting may be conducted with less than 24 hours notice if all Assembly members are present or if all absent members have waived in writing the required notice. Waiver of notice can be made before or after the special meeting is held. A waiver of notice shall be made a part of the journal for the meeting.
3. All meetings of the Assembly shall be public and the public shall have reasonable opportunity to be heard. Closed or executive sessions shall only be held pursuant to law. The mere discussion of persons or finances shall not be cause for any executive session.
4. Assembly members may attend meetings of the assembly in person or by teleconference. Assembly members attending meetings by teleconference shall do so only after the Assembly, by majority vote, approves this manner of attendance, due to extenuating circumstances including inability to travel due to weather. A majority of the membership of the Assembly, authorized by this Charter, shall constitute a quorum. A member disqualified from voting on a question may be considered present for purposes of constituting a quorum. In the absence of a quorum, any number less than a quorum may recess or adjourn the meeting to a later time or date.
5. Actions of the Assembly are adopted by a majority of the total membership of the body. The final vote of each member on each ordinance, resolution, or substantive motion shall be recorded "yes" or "no", except that if the vote is unanimous, it may be recorded unanimous.
6. Each Assembly member in attendance at an Assembly meeting shall vote on all questions presented at the meeting, unless prohibited from doing so by this Charter. Failure as an attending member to vote on a question, unless prohibited to do so by this Charter, shall be recorded as a "No" vote.

## Section 2.09

### Prohibitions

1. No elected official of the borough shall hold any other elective public borough office, or any other borough office or borough employment, during his or her term as an elected official of the borough. No elected official of the borough shall hold any compensated appointive borough office, other than membership on a board or commission, for a period of one year after vacating his or her elective office.
  - A. Members of the immediate family of Assembly members shall not be employed as the borough Manager.
  - B. Members of the immediate family of the Assembly or Manager may not be employed by the borough except upon approval of the Assembly.



- C. The term "immediate family", as used in "A" and "B" above, is defined as the relationship of husband and wife, father and son or daughter, or mother and son or daughter, or brother and sister, or brother and brother, or sister and sister.

2. The Assembly shall not recommend or direct the appointment or removal of any officer or employee of the borough administration except as otherwise provided by this Charter.

3. No Assembly person may represent any client before any borough department or agency.

#### Section 2.10

##### Mayor

The Mayor shall perform all duties required by this Charter or by the Assembly. He shall be head of the borough for ceremonial purposes and be recognized by the Governor for purposes of martial law. He shall not have the veto power. The duties of the Mayor shall include but not be limited to the following:

- A. Preside at meetings of the Assembly;
- B. Be a member of the Assembly with all the powers and duties of that office;
- C. In emergencies, have the powers conferred by law upon peace officers and exercise such powers to prevent disorder, preserve the public peace and health, and to provide for the safety of persons and property.

#### Section 2.11

##### Deputy Mayor

The Deputy Mayor shall succeed to the office of Mayor when a vacancy occurs in that office. He shall perform the duties and exercise the powers of the Mayor when the Mayor is absent or unable, as determined by the Assembly, to perform the duties of his office.

#### Section 2.12

##### Investigation

- 1. The Assembly may make investigations into the affairs of the borough and the conduct of any borough department, office, or agency.
- 2. The Assembly may, by ordinance, create boards and commissions pursuant to this section for the purpose of inquiries and investigations. The members of such boards and commissions shall be appointed by the Assembly.

#### Section 2.13

##### Clerk and Special Advisors

- 1. There shall be a Borough Clerk appointed by the Manager and confirmed by the Assembly. The clerk shall attend all Assembly meetings, unless excused, keep a journal of its proceedings, give notice of Assembly meetings to the members and the public, and perform such other duties as may be assigned.

2. The Assembly may appoint special legal and financial advisors for bond issues and shall retain legal counsel as it requires.

3. There shall be a Borough Attorney appointed by the Manager and be subject to confirmation by the Assembly.

#### Section 2.14

##### Boards

1. The Assembly, by ordinance, may create quasi-legislative, quasi-judicial, or advisory boards, and the Assembly may appoint the board members or prescribe the method of appointment or removal.

2. To the extent permitted by law and this Charter, the Assembly may grant to boards the power to conduct hearings and make recommendations or decisions. All recommendations or decisions shall be promptly filed with the clerk as a matter of public record. Board decisions shall become final unless notice of an appeal to the Assembly is filed with the clerk within twenty (20) days of the date on which the board decision was filed. Board decisions may be appealed to the Assembly by any party affected by the proceedings, by a member of the Assembly, or by a municipal officer or employee.

3. All questions presented to the Assembly concerning any subject which has been delegated to a board shall be submitted first to the board for consideration unless the Assembly shall otherwise determine.

4. Boards shall not be authorized to employ or remove or direct the employment or removal of any municipal officer or employee, except that the personnel board may determine all questions as required by the personnel regulations adopted by the Assembly.

5. The prevailing vote of a majority of the members of a board shall be required for official action except that the prevailing vote may be reduced by one (1) vote for every two (2) members of the board who are present but who do not vote because they have a conflict of interest or have been excused from voting by a vote of all the remaining members who may vote on the question, except that the prevailing vote required may not be reduced to a number less than one-third the membership on the board. A quorum of a board shall consist of a majority of the full membership.

6. Board meetings shall be conducted as provided for the Assembly in Section 2.08 of this Charter.

### Article III Executive

#### Section 3.01

##### Manager

There shall be a Manager of the Borough, appointed by the Assembly. The Assembly may enter into a term contract with a Manager.

## Section 3.02

### Qualifications

The Assembly, by ordinance, may set forth specific qualifications. No member of the Assembly may be appointed Manager unless at least two (2) years have intervened since the expiration of his last term on the Assembly and the date of appointment.

## Section 3.03

### Suspension or Removal

Subject to any specific provisions in his contract, the Manager serves at the pleasure of the Assembly and may be removed at any time, with or without cause.

## Section 3.04

### Acting Manager

If the Manager is absent from the municipality or is unable to perform his duties, if the Assembly suspends the Manager, or if there is a vacancy in the Office of the Manager, the Assembly may appoint an Acting Manager to serve until the Manager returns, until his disability or suspension ceases, or until another Manager is appointed. The Assembly shall replace the Acting Manager with a permanent Manager within a reasonable time, and in no case may he serve as Acting Manager for more than one (1) year. An Assemblyman may serve as Acting Manager but first must resign from the Assembly.

## Section 3.05

### Powers and Duties

The Manager shall be chief administrative officer of the borough and shall be responsible to the Assembly. He shall execute the provisions of this Charter, all ordinances of the borough, and all applicable laws. Without limiting the foregoing, or excluding other or broader powers consistent therewith, the Manager shall:

- A. Appoint or remove all heads of administrative departments and, subject to such personnel regulations as the Assembly may adopt, other borough employees. He may authorize any administrative officer to appoint or remove subordinates in his department, subject to such personnel regulations as the Assembly may adopt;
- B. Direct the care and custody of all borough property;
- C. Direct and supervise the construction, maintenance, and operation of borough public works;
- D. Prepare and submit the annual budget and capital improvements program to the Assembly;
- E. Keep the Assembly fully advised on the financial condition and needs of the borough; and

- F. At the beginning of each fiscal year, submit to the Assembly a report on the financial and administrative activities of the borough for the preceding fiscal year; within three (3) months after the end of each fiscal year, prepare and make available to the public, at such reasonable price as the Assembly may direct, an annual report on borough affairs during the preceding fiscal year.

#### Section 3.06

##### Assembly Meetings

The Manager shall have the right to take part in the discussion of all matters coming before the Assembly.

#### ARTICLE IV LEGISLATION

#### Section 4.01

##### Ordinance Form and Content

1. All ordinances enacted by the Assembly shall be in substantially the following form:

- A. The proposed ordinances shall have a heading and number.
- B. Title: a short summary of the ordinance's provisions shall be included in a title at the head of the ordinance. The title shall make reference to any penalties imposed by the ordinance.
- C. Enacting clause: the enacting clause shall read: "BE IT ENACTED BY THE ASSEMBLY OF THE LAKE AND PENINSULA BOROUGH:".
- D. Substantive part of the ordinance: the provisions of the ordinance will follow the enacting clause.
- E. Signatures: appropriate places shall be provided for the signatures of the Mayor and the clerk.
- F. Attestation: the enactment and passage date of the ordinance shall be attested by the clerk.

2. Every ordinance shall be confined to one (1) subject unless it is an appropriation ordinance or one (1) codifying, revising, or rearranging existing ordinances. Ordinances for appropriations shall be confined to appropriations. The subject of each ordinance shall be expressed in the title.

#### Section 4.02

##### Acts Required To Be By Ordinance

1. In addition to other actions required by law to be, by ordinance, the Assembly shall use ordinances to:

- A. Establish, alter, or abolish borough departments;
- B. Fix the compensation of members of the Assembly, boards, commissions, and committees;

- C. Provide for a fine or other penalty, or establish rules or regulations for violations of which a fine or other penalty is imposed;
- D. Provide for levying of taxes;
- E. Make appropriations and supplemental appropriations or transfer appropriations;
- F. Grant, renew, or extend a franchise;
- G. Regulate the rate charged by a borough utility;
- H. Adopt, modify or repeal the comprehensive plan, zoning, and subdivision ordinances, building, and housing codes, and the official map;
- I. Establish a formal procedure for acquisition from private, state or federal government of land or rights in land and disposal of those lands or rights in land;
- J. Provide for a comprehensive personnel system, including, but not limited to, regulating all appointments, promotions, demotions, suspensions, and removal of borough officers and employees on the basis of merit; and
- K. Create or designate itself to be a board of review, adjustment, equalization, or canvassing board.

#### Section 4.03

##### Ordinance Procedure

1. An ordinance may be presented for consideration by a member or committee of the Assembly or by the Manager at any regular or special meeting of the Assembly. Upon presentation of an ordinance, copies shall be furnished to each Assembly member and to the Manager. Upon presentation, an ordinance shall be rejected, deferred, referred to committee, or accepted as being introduced. Promptly after introduction, the Assembly shall publish the ordinance and a notice setting out the time and place for a public hearing on the ordinance. The public hearing of an ordinance shall follow publication by at least ten (10) days; it may be held at a regular or special Assembly meeting and may be adjourned from time to time. At the public hearing copies of the ordinance shall be distributed to all persons present who request them or, in the alternative, the ordinance shall be read in full. All interested persons shall have an opportunity to be heard. If the ordinance is amended after the hearing so substantially as to change its basic character, the ordinance shall be treated as a newly introduced ordinance. After the hearing, the Assembly shall consider the ordinance and may adopt it with or without amendment by a majority vote of all present and absent members, not prohibited from voting by this Charter.

2. Ordinances take effect upon adoption or at a later date specified in the ordinance.

3. As used in this section, "publish" shall mean mailing to each city or village administrator and publication by such other media as the Assembly shall designate by ordinance, at least ten (10) days before the public hearing.

## Section 4.04

### Emergency Ordinance

1. To meet a public emergency, the Assembly may adopt ordinances effective upon adoption. Every emergency ordinance must contain a finding by the Assembly that an emergency exists and a statement of the facts upon which the finding is based. An emergency ordinance may be adopted, amended and adopted, or rejected at the meeting at which it is introduced. The affirmative vote of all members present, or the affirmative vote of three-fourths of the total membership authorized in this Charter, whichever is less, is required for adoption. The Assembly must print and make available copies of adopted emergency ordinances.
2. An emergency ordinance may not be used to levy taxes, to grant, renew or extend a franchise, or to regulate the rate charged by a public utility for its services.
3. Emergency ordinances are effective for sixty (60) days.

## Section 4.05

### Codes of Regulation

The Assembly may adopt any standard code, or any provisions of the statutes of the State of Alaska, by reference thereto in an adopting ordinance. Materials adopted by reference under this section need not be distributed to the public or read at a public hearing, but copies of the materials shall be made available for public inspection for at least fifteen (15) days, in each community of the borough, before the hearing for the adopting ordinance. Only the adopting ordinance need be printed after adoption. The Assembly shall provide for the adopted code to be provided to the public.

## Section 4.06

### Acts by Resolution

Actions of the Assembly, by resolution, shall be as follows:

1. Every resolution shall be introduced in writing in the following format and shall be orally read before any vote for passage thereof is taken.
  - A. The heading "Lake and Peninsula Borough, Alaska";
  - B. The space for a number to be assigned "Resolution \_\_\_\_";
  - C. A short and concise title descriptive of its subject and purpose;
  - D. Short premises or whereas clauses descriptive of the reasons for the resolution, if necessary;
  - E. The resolving clause, "BE IT RESOLVED";
  - F. Provision for signatures after the date, and designated lines for the signatures of the Mayor and the clerk; and
  - G. An attestation.

Resolutions shall not be included in any municipal code of ordinances.

## Section 4.07

### Rules and Regulations

Any rule or regulation made by any administrative officer or board or commission shall be published at least 15 days prior to its adoption in a newspaper of general circulation in the borough and by posting at public posting locations.

## ARTICLE V NOMINATIONS - ELECTIONS

### Section 5.01

#### General Requirements

1. Regular elections. A regular election shall be held annually on the first Tuesday in October.
2. Special Election. The Assembly shall provide, by ordinance, for special elections.
3. Notice of Election. At least thirty (30) days published notice shall be given of a regular or special election. The notice shall state the purpose of the election.
4. Qualifications of Voters. A person may vote in any borough election only if the person:
  - A. Is qualified to vote in the State of Alaska; and
  - B. Is a resident of the borough for thirty (30) days immediately preceding the election.
5. Nominations. Candidates for elective office shall be nominated by a petition signed by at least 25 qualified voters of the borough. All nomination papers comprising a petition shall be assembled and filed in person with the clerk during office hours as one instrument not earlier than 120 days nor later than 45 days before the election. No nominating petition may be accepted unless accompanied by a signed acceptance of the nomination by the candidate.
6. Election procedure. All elections shall be nonpartisan. The Assembly, by ordinance, shall prescribe rules for the conduct of borough elections.
7. Determination of election results. The candidate for an office that receives at least forty percent (40%) of the votes cast and the greatest number of votes is elected to the office. In case of a tie, or no candidate receives forty percent (40%) of the votes cast, a runoff election between the two (2) candidates receiving the greatest number of votes will be held within thirty (30) days.

## ARTICLE VI INITIATIVE, REFERENDUM AND RECALL

### Section 6.01

#### Initiative and Referendum

The powers and rights of the initiative and referendum are reserved to the people of the borough except, the powers do not extend to matters restricted by Article XI, section 7 of the state constitution. The Assembly, by ordinance, shall regulate the procedure for their exercise.

## ARTICLE VII PLANNING

### Section 7.01

#### Planning Commission

There shall be a Planning Commission consisting of seven (7) members appointed by the Mayor and confirmed by the Assembly. The powers and duties of the Planning Commission, and the terms, qualifications, and compensation of its members shall be provided by ordinance.

### Section 7.02

#### Comprehensive Plan

The Assembly, by ordinance, shall adopt and implement, and from time to time modify, a comprehensive plan setting forth goals, objectives and policies governing the future development of the borough.

### Section 7.03

#### Platting Regulation and Subdivision Regulation

There shall be a platting authority constituted as provided for by ordinance. The Assembly, by ordinance, shall provide for the regulation of the subdivision of land within the borough.

### Section 7.04

#### Planning and Platting Within the Incorporated Cities of the Borough

1. When the city councils, by ordinance, consents, the Borough Assembly may, by ordinance, transfer the authority for platting, planning, and land use regulations to the respective municipalities for areas within the cities' jurisdiction.
2. In the unorganized communities within the borough, the borough may establish, by ordinance, advisory committees for planning, platting, and land use regulations pertaining to the area of the respective communities.
  - A. The Assembly shall, by ordinance, establish the role and authority of the advisory committees described above.

## ARTICLE VIII EDUCATION

### Section 8.01

#### Public School System

There shall be a system of public education for the borough, conducted in the manner provided by law. The system of public education shall be operated by a school board of seven (7) members.

### Section 8.02

#### School Board

1. Qualifications. A school board member shall be a qualified borough voter and a



resident of the borough. No school board member may hold any compensated school district employment while serving on the school board.

2. Term. Each school board member shall be elected to three (3) year staggered terms.

3. Election. Each school board member shall be elected at-large by the qualified voters of the borough and shall be residents of the district to which the seat they seek is assigned pursuant to Section 2.02 of this Charter. Such elected school board member represents all the voters of the borough.

4. The Assembly may, by ordinance, adopt additional procedures pertaining to the nominations and election of school board members.

5. Vacancies. The office of school board member shall become vacant upon death, resignation, or removal from office in any manner authorized by law or by this Charter or by forfeiture of office as prescribed by law or the policies of the school board.

#### Section 8.03

##### Budget

The superintendent of schools shall submit an annual budget which shall first be approved by the school board at such time as the board may direct, but in no case at a date later than that prescribed by State law. The proposed school budget shall be a public record available from the time of its submission to the board for public inspection and distribution. The board shall hold public hearings on the budget before approval and submission to the Assembly for final action.

#### Section 8.04

##### Joint Conference

The Assembly and board may met jointly at public meetings to deliberate upon matters of mutual interest.

### Article IX Finance

#### Section 9.01

##### Fiscal Year

The fiscal year of the borough shall begin on July 1 and end on June 30 of the following calendar year.

#### Section 9.02

##### Submission of Budget, Capital Improvements Program and Message

Not later than sixty (60) days before the end of the current fiscal year, the Manager shall submit to the Assembly a budget for the following fiscal year, a capital improvements program and an accompanying explanation message of both. The Assembly may grant an extension not to exceed thirty (30) days if compelling reasons exist.

## Section 9.03

### Scope of Budget

1. Complete financial plan. The budget shall be a complete financial plan for all the operations of the borough, showing all reserves, all estimated revenues from all sources, and all proposed expenditures for all purposes.
2. Form. The budget shall contain at least the following:
  - A. A comparative statement of actual expenditures and actual revenues for the preceding fiscal year.
  - B. Estimated expenditures and estimated revenues for the current fiscal year.
  - C. A brief explanation of each item.
3. Balanced budget. Proposed expenditures shall not exceed total estimated revenues and reserves.

## Section 9.04

### Scope of Capital Improvements Program

1. The capital improvement program shall be a plan for capital improvements proposed for the following six (6) fiscal years, together with the estimated cost of each improvement and the proposed method of financing it. It shall contain at least the following:
  - A. A summary of current capital improvements which are unfinished.
  - B. A simple, clear summary of the detailed contents of the program.
  - C. Capital improvements pending or proposed to be undertaken within the ensuing fiscal year, together with the estimated cost of each improvement and the proposed method of financing it.
2. Capital improvements to be financed in the following fiscal year, shall be included in the budget as well as in the capital improvements program.

## Section 9.05

### Scope of Message

The Manager's message shall contain an explanation of the budget both in fiscal terms and in terms of work to be done, a description of the important features of the budget, an outline of the proposed financial policy of the borough for the following fiscal year, and an explanation of each capital improvement to be undertaken within the following six (6) fiscal years.

## Section 9.06

### Hearing

1. By June 15, a public hearing shall be held on the budget and capital improvements program. All persons interested shall have an opportunity to be heard. At least ten (10) days prior to the hearing, the Assembly shall:

- A. Publish a summary of the budget and capital improvements program and a notice setting out the time and place of the public hearing; and
- B. Deliver copies of the notice and summary of the budget and capital improvements program and the Manager's message to newspapers of general circulation in the borough, to the radio stations operating in the borough, and by posting in two (2) public places in each community.

2. Publish shall have the same meaning as provided for in Section 4.03.3 of this Charter.

#### Section 9.07

##### Assembly Action on Budget

The Assembly, by ordinance, shall adopt a budget not later than June 15.

#### Section 9.08

##### Assembly Action on Capital Improvement Program

The Assembly, by ordinance, shall adopt a capital improvements program not later than June 15 before the end of the current fiscal year. If it fails to do so, the capital improvements program submitted by the Manager shall be deemed adopted by the Assembly.

#### Section 9.09

##### Certification and Distribution

The budget and capital improvements program as adopted shall be certified by the Manager and borough clerk, and shall be a public record and shall be made available at the borough clerk's office for distribution to the public at no more than cost.

#### Section 9.10

##### Supplemental and Emergency Appropriations

1. If during any fiscal year there are available revenues not anticipated in the budget estimates and unobligated reserves, the Assembly, by ordinance, may make supplemental appropriations for the year up to the amount of the additional revenues and unobligated funds in the reserve account.

2. Upon declaration by the Assembly that a public emergency exists and describing the emergency in clear and specific terms, the Assembly may make emergency appropriations. Such appropriations may be made by emergency ordinance.

#### Section 9.11

##### Reduction and Transfer of Appropriations

If during the fiscal year it appears that revenues and unobligated reserves available will be insufficient to meet the amount appropriated, the Manager shall report to the Assembly without delay. The Assembly, by ordinance, may reduce any appropriation, except for debt service. No appropriation may be reduced by more than the amount of the unencumbered balance. Except as to the school budget, the Manager may transfer all or part of any unencumbered balance between categories within an appropriation. The School Board may transfer part or all of any

unencumbered balance between categories within the appropriation for the school budget. Except as to the school budget, the Assembly may transfer part or all of any unencumbered balance from one appropriation to another.

#### Section 9.12

##### Lapse of Appropriations and Surpluses

At the end of the fiscal year, an unencumbered appropriation shall lapse into the fund from which appropriated; provided that an appropriation for a capital improvement, or in connection with requirements of federal or state grants, shall not lapse until its purpose has been accomplished or abandoned.

#### Section 9.13

##### Administration of Budget

1. No payment may be made and no obligation incurred against the borough except in accordance with appropriations duly made. No payment may be made and no obligation incurred against any appropriation unless the Manager ascertains that there is a sufficient unencumbered balance in the appropriation and that sufficient funds are or will be available to cover the obligation.

2. Every obligation incurred and every authorization of payment in violation of this Charter shall be void. Every payment made in violation of the provisions of this Charter shall be illegal. All officers or employees of the borough who knowingly authorize or make such payment shall be jointly and severally liable to the borough for the full amount so paid.

3. The Assembly, by ordinance, may authorize a contract, lease or obligation requiring funds from future appropriations, including appropriations in future fiscal years, subject to the annual appropriation of funds for that purpose.

4. The Borough Assembly may, by ordinance, establish a centralized treasury of all borough monies, including school monies. The borough administrator shall have the custody of, invest, and manage all money in the centralized treasury. However, the Borough Assembly, with the consent of the Borough School Board, may, by ordinance, delegate to the Borough School Board the responsibility of a centralized treasury.

5. When the borough school board by resolution consents, the Borough Assembly may, by ordinance, provide a centralized accounting system for school and all other borough operations. The system shall be operated in accordance with accepted principles of governmental accounting. However, the Assembly, with the consent of the borough school board, may, by ordinance, delegate to the borough school board the responsibilities of the accounting system.

#### Section 9.14

##### Purchasing; Contract Approval

1. The Assembly, by ordinance, shall provide for competitive bidding for purchase of goods and services by the borough and sales of surplus borough property, and for any exceptions thereto.

2. The Assembly, by ordinance, shall establish provisions for Assembly approval of borough contracts and exceptions thereto.

#### Section 9.15

##### Enterprise Funds

Revenues from a borough enterprise established after ratification of this Charter shall be first used for debt retirement, construction, acquisition, operation, maintenance, repair and capital improvement of the enterprise. Other uses of such revenues shall be only as authorized by ordinance.

#### Section 9.16

##### Independent Audit

The Assembly shall provide for an annual audit of all borough accounts by an independent certified public accountant, and may require additional duties that it deems necessary.

#### Section 9.17

##### Lake and Peninsula Borough Reserve Fund

A Reserve Fund is hereby authorized. Operation of the fund shall be made by borough ordinance.

#### ARTICLE X BORROWING

#### Section 10.01

##### Authority

The borough may borrow money and issue such evidence thereof, herein called obligations, as the Assembly may determine necessary.

#### Section 10.02

##### Restrictions on Borrowing

1. General obligations of the borough for capital improvements. No general obligation or bonded indebtedness for capital improvements may be incurred unless authorized by the Assembly and ratified by a majority vote of those in the borough voting on the question.

2. General obligations of service areas. No obligation secured by a pledge of taxes to be levied in a service area may be issued unless authorized for capital improvements by the Assembly and ratified by a majority of the qualified voters in the service area voting on the question. In a service area where there are no qualified voters to vote on the question, voter ratification shall not be required.

#### Section 10.03

##### Notice of Bond Election

1. In calling any election required by this article, the Assembly shall cause a notice to be published at least 30 days prior to the election in a newspaper of general circulation in each community of the borough, or other public notice procedures as described in 4.03.3 of this Charter. The notice shall contain the following information:

- A. The maximum amount of the bonds, purpose of their issuance, and maximum length of time within which the bonds shall mature;
- B. The estimated annual debt service on the proposed bonds and its estimated effect per \$100,000 of assessed valuation;
- C. The current total general obligation indebtedness of the borough, including authorized but unsold general obligation bonds and its estimated effect per \$100,000 of assessed valuation;
- D. The current year's debt service on the outstanding general obligation bonds of the borough and its estimated effect per \$100,000 of assessed valuation; and
- E. The current assessed valuation within the borough.

2. For bonds secured by a pledge of taxes to be levied in a service area the notice shall also contain the information required in subsection 1 above, C, D, and E relative to the service area.

3. Errors contained in information required in subsection 1 above, B, C, D, and E with regard to the borough or a service area shall not invalidate any election unless such errors are material. Actions challenging the sufficiency of any notice of election must be brought within the time provided in Section 10.06 of this Charter.

#### Section 10.04

##### Manner of Sale

General obligation bonds and bonds secured by a pledge of taxes to be levied in the service area may be sold in such manner as the Assembly shall provide.

#### Section 10.05

##### Sale to Financial Consultant Prohibited

No person retained by the borough to perform services relating to financial programming or the issuance and sale of obligations may bid on such obligations, directly or indirectly. In the event any such person violates this provision, his contract for such services shall be null and void and he shall not be entitled to any services rendered; and, in addition, he shall be liable for any damages sustained by the borough in connection with such purchases and sale. Violation of the provisions of this section shall not invalidate the obligations. Nothing contained in this paragraph shall be construed to prohibit the issuance of bonds through orthodox underwriting practices.

#### Section 10.06

##### Actions Challenging the Validity of Obligations

No action challenging the validity of any obligations may be maintained unless instituted within thirty (30) days from the effective date of certification of the results of the election ratifying the issuance of such obligation or thirty (30) days from the effective date of the ordinance authorizing the issuance of such obligation when ratification is not required.

## Section 10.07

### Interest and Profits from Investments

All interests and profits derived from the investment of the proceeds from the sale of any obligation shall be used solely for the purpose for which such obligations were issued, or for their retirement.

## ARTICLE XI TAXATION

### Section 11.01

#### Tax Procedures

1. The Assembly shall, by ordinance, prescribe the procedures for tax assessment and collection.

- A. Property Assessment. Such procedures shall provide for the assessment of property at its full and true value and for notice of assessment, administrative appeal, and judicial review.
- B. Property tax first lien. Any property tax together with collection charges, penalties, and interest is a first lien upon property.
- C. Sales and use tax. Any sales or use tax or change in rate thereof shall be, by ordinance, ratified by a majority of the qualified voters voting on the question.

2. No lien authorized by this Charter or by law precludes the borough from exercising any other lawful remedy for the collection of taxes.

### Section 11.02

#### Private Interests Taxable

Private leaseholds, contracts, or interests in land or property owned or held by the United States, the State, or other political subdivisions, shall be taxable to the extent of the fair market value of the private interest.

### Section 11.03

#### Property Tax

1. Property tax shall not go into effect prior to a popular vote in which the majority of voters approve the property tax, except that this provision shall not apply either to taxes to pay or secure payment of principal and interest on bonded indebtedness as per A.S. 29.45.100.

2. Property taxes to pay or secure bonded indebtedness shall be enacted by Assembly ordinance.

## ARTICLE XII SERVICE AREAS

### Section 12.01

#### Purpose

Service areas may be established to provide services not provided on an areawide basis or to provide a higher level of service than that provided on an areawide basis.

## Section 12.02

### Establishment

1. By Ordinance. The Assembly, by ordinance, may establish, alter, consolidate, or abolish service areas. The Assembly, by ordinance, may add or eliminate services to a service area. The ordinance shall contain the following:

- A. Boundaries and area to be included;
- B. Service to be provided or be eliminated; and
- C. Other provisions the Assembly includes.

2. By Petition. Procedures for the establishment by petition of a service area shall be in accordance with a service area petition procedure adopted by ordinance.

## Section 12.03

### Criteria

Service areas shall be established according to criteria of need and economic operating efficiency and shall comprise the area to which the services shall be provided. A new service area shall be established only after Assembly determination that such services cannot be provided reasonably by an existing service area or by alteration of an existing service area.

## Section 12.04

### Financing

The Assembly may levy taxes, assessments, or other charges within a service area to finance the services and funds thereby raised and shall not be used for any purpose outside of the service area.

## ARTICLE XIII LOCAL IMPROVEMENT DISTRICTS

### Section 13.01

#### Purpose

Local improvement districts may be established in a limited and determinable area to confer the special benefits of any borough improvement. All or any part of the costs of the improvement may be paid out of the proceeds of special assessments levied against the benefited property.

### Section 13.02

#### Local Improvement Procedure

The Assembly, by ordinance, shall prescribe procedures for establishment of local improvement districts and for agreements for furnishing capital improvements and the extension thereof in lieu of assessments.



### Section 13.03

#### Assessment in Proportion to Benefit

The Assembly, by ordinance, shall establish the method of apportioning and assessing the cost of improvements upon real property specially benefited in proportion to the benefits.

### Section 13.04

#### Lien

A special assessment, together with collection and interest charges, is a lien on the property assessed second in priority only to property taxes and prior special assessments. The assessment lien shall be enforceable in the same manner as a lien for borough taxes.

### Section 13.05

#### Protests

If protests as to the necessity for any local improvements are made within the time allowed by ordinance by the owners of real property that will bear at least fifty percent (50%) of the estimated cost to be borne by the benefited property, the improvement shall not proceed until the protests have been reduced below fifty percent (50%).

### Section 13.06

#### Limitation on Actions

No special assessment procedure may be contested by an action at law or in equity unless commenced within sixty (60) days after the confirmation of the special assessment roll.

### Section 13.07

#### Property Liable

Except as otherwise provided by law all real property, including property exempt from taxation as provided by law, shall be liable for the cost of local improvements unless specifically exempted by ordinance of general application.

### Section 13.08

#### Receipts

Accounts for local improvement districts shall be kept separate from other borough accounts. Revenues from a special assessment shall be used solely to pay the cost of the improvements or the principal and interest on indebtedness incurred for the improvements.

## ARTICLE XIV CHARTER AMENDMENT

### Section 14.01

#### Proposal

1. Amendments to this Charter may be proposed:

- A. By ordinance of the Assembly containing the full text of the proposed amendment; or
- B. By report of an elected Charter Commission created by Assembly ordinance or by initiative ordinance; or
- C. By initiative petition.

#### Section 14.02

##### Election

Proposed amendments shall be submitted to the qualified voters of the borough at the next regular or special election occurring more than 45 days after adoption of the ordinance, the final report of the Charter Commission, or certification of the initiative petition. A notice containing the full text of each proposed amendment shall be published.

#### Section 14.03

##### Effective Date

If more than sixty-six percent (66%) of the qualified voters voting on a proposed amendment approve, the amendment shall become effective at the time fixed therein or, if no time is so fixed, thirty (30) days after certification of the election.

### ARTICLE XV GENERAL PROVISIONS

#### Section 15.01

##### Personal Financial Interest

1. Prohibition. No elected official may vote on any question on which he has a substantial financial interest. Any borough officer, employee, or Assembly member who has a substantial financial interest in any contract with the borough, or in the sale of land, material, supplies, or services to the borough or to a contractor supplying the borough shall make known that interest and shall refrain from participating in his capacity as a borough officer, employee, or Assembly member in the making of such sale or in the making or performance of such contract.

2. Punishment. Any borough officer, employee, or Assembly member who violates the requirements of this section shall forfeit his office or employment. Violation of this section with the knowledge expressed or implied of the person contracting with or making a sale to the borough shall render the contract or sale to the borough voidable by the administrator or the Assembly.

3. Additional rules. The Assembly, by ordinance, may prescribe additional rules and penalties to prevent conflicts of interest.

#### Section 15.02

##### Prohibitions

1. Discrimination. No person shall be discriminated against in any borough appointment, employment, or promotion because of race, sex, color, political or religious affiliation, or national origin.

2. Personnel regulations. No person shall willfully falsify any test, certification, or appointment under the personnel regulations, or in any manner commit or attempt to commit any fraud to prevent the impartial execution of such regulations.

3. Undue influence. No person shall offer, give, or receive any money, service, or other valuable thing to influence or attempt to influence any action of an officer or employee in the performance of his borough duties.

4. Solicitation. No Assembly person, borough officer, or administrative employee shall directly or indirectly solicit a contribution for any political party or purpose from any person holding a compensated borough position.

5. Campaigning. No borough officer or Assembly person shall campaign while on official business.

#### Section 15.03

##### Surety Bonds

The Borough Manager, the borough clerk, or such other officers and employees as the Assembly may designate, before entering upon their duties, shall be bonded by individual or group bonds for the faithful performance of their respective duties, payable to the borough, in such form and in such amounts as the Assembly may prescribe with a surety company authorized to operate within the State. The borough shall pay the premiums on such bonds.

#### Section 15.04

##### Oath of Office

Every officer of the borough, before entering upon his duties, shall take the oath or affirmation required by Section 5 of Article XII, Constitution of the State of Alaska. The Assembly may require designated employees to take such oath before entering upon employment. Oaths of office shall be filed with the borough clerk.

#### Section 15.05

##### Continued Office

Every officer who is elected or appointed for a term ending at a definite time shall continue to serve until his successor qualifies and takes office, except in the case of death, resignation, or termination by law or this Charter.

#### Section 15.06

##### Borough Proceedings

The Assembly, by ordinance, shall establish procedures governing administrative proceedings in which the legal rights, duties, and privileges of persons are to be determined; insure fair and equal treatment of all persons involved in such proceedings; and, provide for the conduct of such proceedings in an orderly and uniform manner.

#### Section 15.07

##### Records to be Public

All records of the borough shall be public except as otherwise provided by law. Records shall be available at borough offices for public inspection and for

distribution at such reasonable cost. Copies certified by the clerk shall be prima facie evidence of their contents.

#### Section 15.08

##### Notice of Lien

When any lien other than for ad valorem taxes or special assessments is placed by the borough on any real property, notification of the lien shall be sent by registered or other special mail to the person whose name appears as owner of the property on the most recent tax assessment roll.

#### Section 15.09

##### Dedication of Borough Property

Dedication of streets, right-of-ways, easements or other areas for public use by the Assembly may not be construed to require the borough to maintain, improve, or provide for borough services in the area dedicated and the dedication does not impose any liability on the borough for the condition of the area dedicated.

#### Section 15.10

##### Separability

If any provision of this Charter is held invalid, other provisions shall not be affected. If the application of this Charter or any of its provisions to a person or circumstance is held invalid, the application of this Charter or any of its provisions to other persons or circumstances shall not be affected.

#### Section 15.11

##### Return of Funds to Communities

The Borough Assembly shall establish procedures by which available funds generated in the organized and unorganized communities by revenue sharing and municipal assistance shall be returned to those communities to the extent allowed by law.

#### Section 15.12

##### Community Participation

The Assembly will make provision for nonvoting representatives from communities not represented by an elected person on the Assembly to attend regular meetings of the Assembly.

### ARTICLE XVI TRANSITIONAL PROVISIONS

#### Section 16.01

##### Effective Date

This Charter shall be effective immediately on ratification of the borough.

#### Section 16.02

##### Election of Initial Officials

The initial Borough Assembly shall be elected as provided in AS 29.05.110 and AS 29.05.120, and provisions of this Charter.

**Section 16.03**

**Organization of Assembly**

The Assembly shall meet as provided in Section 2.06 of this Charter and organize and carry out duties as required in that section.

**Section 16.04**

**Transitional Provisions for Borough Manager**

The initially elected Assembly may appoint an Interim Manager until such time that a Manager is appointed. No person may serve as Interim Manager for more than 180 days.

**Section 16.05**

**Transitional Provisions for School Board**

All persons comprising the School Board of the REAA existing immediately before the adoption of this Charter shall be deemed to have been elected to the School Board, until the next regular election held in October 1990. In October 1990, all seats shall be up for election that would be up for election following the terms of office as previously set by the REAA School Board. All seats shall continue with the staggered terms of office of three (3) years set by this Charter.

**Section 16.06**

**Continuation of Employment**

All employees of the REAA shall continue in employment until the Assembly, as the case may be, provides otherwise. Salaries and benefits enjoyed by current REAA employees shall continue unless provisions are made to the contrary.

**Section 16.07**

**Boards, Committees and Commissions**

Except for those provided for by this Charter, all appointed committees, commissions, and boards in effect at the time this Charter for agencies providing service to the region is ratified shall be dissolved one (1) year after the effective date of this Charter unless sooner abolished or specifically continued by ordinance.

**Section 16.08**

**Assets and Liabilities**

The borough, as a home rule borough, shall succeed to all the assets and liabilities of the previously existing Rural Education Attendance Area #7.

**Section 16.09**

**Budget**

Following adoption of this Charter, the borough shall operate under the budget of the borough proposed in the incorporating petition and under the budget for the following fiscal year, if one has been proposed in the incorporating petition.

Section 16.10

Continuance of Actions

The adoption of this Charter shall not abate or otherwise affect any action, cause of action, claim, proceeding, civil or criminal, by or against The Lake and Peninsula School District and which had accrued at the time of the effective date of this Charter. The applications, petitions, hearings, and other proceedings pending on the effective date before the borough shall be continued.